

### REMARKS

#### The meeting with the examiner.

The meeting with examiner Stephen Ralis on 22 July 2009 is acknowledged with appreciation. The examiner's summary of the meeting is correct as to what transpired.

#### The supplemental amendment to claim 31.

As discussed at the meeting with the examiner claim 31 is amended to add that the power supply voltage output is of substantially a predetermined value of about 24 volts DC. The prior art does not teach or suggest a power supply providing power of 24 volts DC.

#### The rejection under 35 U.S.C. 102.

Claims 2, 3, 21-23, 26, 27 and 29-31 stand rejected as anticipated by Kimura (U.S. Patent No. 4,886,955). Comments regarding Kimura have already been submitted with the amendment filed 29 June 2009. As stated in the 29 December 2008 office action (at page 5) and as urged by the examiner at the meeting Kimura discloses the power supply (capacitor 39) having a DC voltage output of substantially a predetermined value regardless of the AC voltage within the range of AC voltages. As discussed at the meeting with the examiner, this is not correct. Capacitor 39 in Kimura receives power from source 35 which does not change. Capacitor 39 is not a power supply having a DC voltage output of substantially a predetermined value regardless of whether the input is coupled to the domestic AC voltage or the foreign AC voltage as recited in present claims 29-31. There is no disclosure in Kimura that capacitor 39 is capable of operation with both domestic and foreign power supplies (e.g., both 110 V and 220 V) and it is submitted that one of ordinary skill in the art would understand that capacitor 39 (and the other circuit elements) would not be operable using both domestic and foreign power supplies. One does not expect appliances designed for 110 V domestic power to survive application of higher voltages like foreign 220 V supplies. For at least these reasons and those submitted with the amendment filed 29 June 2009, Kimura does not anticipate claims 29-31 and withdrawal of the rejection is, respectfully, requested.

#### The rejections under 35 U.S.C. 103.

Claims 2-4, 11, 13, 20-23, 26, 27 and 29-31 stand rejected as obvious over Ihlenfeld (U.S. Patent No. 3,869,968) in view of Hirabayashi et al. (U.S. Patent No. 4,937,600). Ihlenfeld's coffee making apparatus has a heater 50 and as discussed at the meeting with the

examiner does not teach or suggest a power supply having an input receiving one of a domestic AC voltage source and a foreign AC voltage source (as recited in claim 30) nor of a power supply having an input receiving a domestic AC voltage when the beverage heating apparatus is operated domestically and receiving a foreign AC voltage when the beverage heating apparatus is operated in a foreign country (as recited in claim 31) and no teaching or suggestion of the coupling steps of claim 29. Hirabayashi et al. is relied on in the office action to make up for the deficiencies in Ihlenfeld and the office action urges “[i]t would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Ihlenfeld with a power supply having an input that couples to an AC voltage source....”

Comments regarding Kimura and Hirabayashi et al. have already been submitted with the amendment filed 29 June 2009. Further to those comments, as discussed at the meeting with the examiner, Hirabayashi et al. does not disclose a power supply having a DC voltage output of substantially a predetermined value regardless of the AC voltage within the range of AC voltages. Accordingly, the combination of Kimura and Hirabayashi et al. would not arrive at the claimed invention. Moreover, there is no motivation for the alleged combination of Ihlenfeld and Hirabayashi et al. as one of ordinary skill in the art would not have looked to the photocopy apparatus of Hirabayashi et al. to modify Ihlenfeld’s coffee making machine. The control disclosed by Hirabayashi et al. requires feedback from the roller being heated to ensure that the heating time, amount or roller heating, etc. is within the limits of one waiting for the copier to heat up so that copies can be made. This control is not something that one of ordinary skill in the beverage making art would want for the apparatus of Ihlenfeld.

There is no explanation in the office action of what structure is suggested to be removed from Hirabayashi et al. and how such structure would have been used to modify Ihlenfeld’s coffee making machine. The examiner bears the initial burden of presenting a prima facie case of obviousness.<sup>1</sup> At the very least a prima facie case requires a clear explanation of how circuit elements in Hirabayashi et al. would be arranged with respect to the circuit elements of Ihlenfeld to arrive at the claimed invention (i.e., a diagram of how the circuit of Ihlenfeld’s Fig. 7 would change). There is no such prima facie case in the office action and it is apparent that the office

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<sup>1</sup> See *In re Rijckaert*, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993).

action is improperly relying on hindsight by using the appellant's disclosure as a blueprint to reconstruct the claimed invention from the isolated teachings of the prior art.<sup>2</sup>

For all of these reasons there is no prima facie case of obviousness, the rejection is improper and it should be withdrawn.

Conclusion.

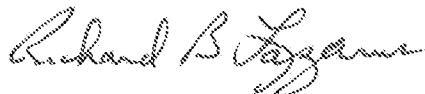
In view of the above amendments and comments it is suggested that the present application with claims 2-24 and 26-31 is in condition for allowance and such action is, respectfully, requested.

If there is any issue remaining to be resolved, the examiner is invited to telephone the undersigned so that resolution can be promptly effected.

It is requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response with the fee for such extensions and shortages in other fees, being charged, or any overpayment in fees being credited, to the Account of Barnes & Thornburg, Deposit Account No. 10-0435 (27726-99611).

Respectfully submitted,

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<sup>2</sup> See, e.g., Grain Processing Corp. v. American Maize-Products Co., 840 F.2d 902, 907, 5 USPQ2d 1788, 1792 (Fed. Cir. 1988).